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AVOCATS A LA COUR

Luxembourg – Set up of a control system regarding corporate concentrations

Started in 2021, the preliminary draft law was adopted by the Council of Government on July 14th, 2023, and the final draft came into force on Tuesday, July 18th, 2023.

During his press conference on Tuesday, July 18th, 2023, the Minister of Economy introduced the new framework for the control of corporate concentrations in the national legislation. The main aim of this draft is to prevent mergers that may have a restrictive effect on competition from taking place. This control is carried out by the Luxembourg Competition Authority, which applies national and European antitrust legislation.



Sometimes, companies can have a harmful influence on competition; therefore, these operations of concentration must be reported to the Luxembourg Competition Authority. This is the case when several companies of the same operation of concentration achieve together a turnover of at least 60 million euros in Luxembourg, or when two companies of the same operation of concentration achieve each a turnover of at least 15 million euros. These thresholds of turnover can be renewed every 3 years.

The Luxembourg Competition Authority has 25 working days to analyze the contemplated operation of concentration, if such operation falls in the above mentioned thresholds. After the deadline, the Luxembourg Competition Authority can either grant an authorization or decide for a second control in case of doubts; however, the latter is very rare. The second analysis lasts 90 working days and results in a permit with or without limitations or a prohibition of the operation of concentration. However, if there is a public interest beyond competition protection, the government may deal with cases already being dealt with by the Luxembourg Competition Authority. In this case, the Council of Government has 35 days to make a decision.

The draft will come into force on the first day of the fourth month after being published in the Memorial, and can only be applied to future operations.

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